



STATE BOARD OF LAND COMMISSIONERS

Dirk Kempthorne, Governor and President of the Board

Ben Ysursa, Secretary of State

Lawrence G. Wasden, Attorney General

Keith L. Johnson, State Controller

Marilyn Howard, Superintendent of Public Instruction

Winston A Wiggins, Secretary to the Board

Final Minutes Regular Land Board Meeting July 12, 2005

The regular meeting of the Idaho State Board of Land Commissioners was held on Tuesday, July 12, 2005 in Boise, Idaho. The meeting began at 9:00 a.m. in the second floor courtroom of the Borah Post Office Building. The Honorable Dirk Kempthorne presided. The following members were present:

Honorable Secretary of State Ben Ysursa
Honorable Attorney General Lawrence Wasden
Honorable Controller Keith Johnson

Secretary to the Board Winston A Wiggins

Superintendent of Public Instruction Marilyn Howard participated in the meeting via conference call.

Governor Kempthorne left the meeting at 11:32 a.m. Secretary of State Ysursa presided for the remainder of the meeting. Agenda items were moved out of sequence to accommodate Governor Kempthorne's early departure with agenda items 13, 14, 16 and Executive Session being held in Governor Kempthorne's absence.

• CONSENT

Director Wiggins provided background information on the Consent Agenda items.

A motion was made by Attorney General Wasden to approve the Consent Agenda in its entirety. Controller Johnson seconded the motion. The motion carried on a vote of 5-0.

1. Director's Report – *approved*

- A. Interest Rate on Department Transactions – June 2005
- B. Timber Sale Official Transactions – May 27, 2005 through June 24, 2005
- C. Timber Sale Activity Report
- D. Legal Matter Summary
- E. Fire Season Update

2. Timber Sales – *Staffed by Bob Helmer, Chief, Bureau of Forest Management – approved*

A. Race Tract Pulp	CR-10-0326	1,700	MBF	Bonner
B. Eight Mile	CR-10-0353	4,600	MBF	Bonner
C. North Fork Mica	CR-22-5005	1,560	MBF	Kootenai

D. Long Ear	CR-30-0492	8,035	MBF	Shoshone
E. West Fork Bond Creek	CR-30-0523	4,035	MBF	Benewah
F. Corral Creek	CR-41-0002	3,650	MBF	Latah
G. Swamp Creek OSR	CR-41-0011	2,235	MBF	Clearwater
H. Still Burn Commercial	CR-42-5004	5,280	MBF	Idaho
I. East Mountain	CR-50-0117	3,373	MBF	Valley
J. Hardrock	CR-60-0141	3,890	MBF	Boise

3. Qualified Bidders List – Timber Sales – Staffed by Bob Helmer, Chief, Bureau of Forest Management – *approved*

A. Welco Enterprises, 9163 North Vogt Road, Hauser, Idaho 83854

4. Request to Enter the Process to Revise Rules for the Forest Practices Act, IDAPA 20.02.01 – Staffed by Ron Litz, Assistant Director, Forestry and Fire – *approved*

DEPARTMENT RECOMMENDATION: Direct the Department to enter the Administrative Procedures Act rulemaking process.

BOARD ACTION: Approved.

5. Request for Approval to Participate as a Member of the:

– Staffed by Ron Litz, Assistant Director, Forestry and Fire – *approved*

A. Clearwater-Potlatch Timber Protective Association

DEPARTMENT RECOMMENDATION: That the State continue to participate as a member of the Clearwater-Potlatch Timber Protective Association.

BOARD ACTION: Approved.

B. Southern Idaho Timber Protective Association

DEPARTMENT RECOMMENDATION: That the State continue to participate as a member of the Southern Idaho Timber Protective Association.

BOARD ACTION: Approved.

6. Approval Request for Disclaimer of Interest to Look Lane, LLC, for Accretion Land Adjacent to the Boise River in Canyon County – Staffed by Perry Whittaker, Chief, Bureau of Real Estate – *approved*

DEPARTMENT RECOMMENDATION: Direct the Department to issue a disclaimer of interest for one (1) parcel of land totaling 0.60 acres of former bed of the Boise River and to require Look Lane, LLC, to pay a fee of \$600.00 to the Department for this transaction.

BOARD ACTION: Approved.

7. **Approval Request for Disclaimer of Interest to Trappers Development, LLC, for Accretion Land Adjacent to the Boise River in Ada County – Staffed by Perry Whittaker, Chief, Bureau of Real Estate – *approved***

DEPARTMENT RECOMMENDATION: Direct the Department to issue a disclaimer of interest for one (1) parcel of land totaling 9.42 acres of former bed of the Boise River and to require Trapper's Development, LLC, to pay a fee of \$600.00 to the Department for this transaction.

BOARD ACTION: Approved.

8. **Request for Approval to Surplus Property Owned by the Department of Fish and Game to the Idaho Transportation Department in Kootenai County – Staffed by Perry Whittaker, Chief, Bureau of Real Estate – *approved***

DEPARTMENT RECOMMENDATION: Direct the Department to coordinate transfer of this 0.827 acre surplus property from Idaho Department of Fish and Game to the Idaho Department of Transportation.

BOARD ACTION: Approved.

9. **Idaho Transportation Department Request to Clear Property Title – Staffed by Perry Whittaker, Chief, Bureau of Real Estate – *approved***

DEPARTMENT RECOMMENDATION: Direct the Department to issue a quit claim deed to transfer any jurisdiction and control of the Idaho Department of Transportation headquarters property on State Street held by the State of Idaho to the State of Idaho by and through the Transportation Board.

BOARD ACTION: Approved.

10. Minutes – *approved*

A. Regular Land Board Meeting – June 21, 2005

Item not on the Agenda

Introduction of New IDL Employees

Director Wiggins introduced a group of new IDL employees. The employees are attending the Land Board meeting as part of an employee orientation. The orientation provides an opportunity for employees to see some of the workings of the Department that they may not see in their individual jobs throughout the state.

Governor Kempthorne commended the employees for their entry into public service and for their decision to work with the Idaho Department of Lands. He reflected that twenty-eight or so years ago he joined state service as a Department of Lands employee. He also came to a Land Board meeting and was introduced. He welcomed the employees and asked that they stand, identify themselves and state what specialty they would be working in.

- Ken Homik, Assistant Fire Warden, Pend Oreille Supervisory Area, Sandpoint

- Julie Garrett, Financial Specialist, Coeur d'Alene Staff Office
- Barry Hillman, Resource Manager-Sr. (Timber), Ponderosa Supervisory Area, Deary
- Derek McNamara, GIS Analyst, Coeur d'Alene Staff Office
- Diane Hopster, Forest Hydrologist, Coeur d'Alene Staff Office
- Becky Handy, Resource Manager (Range), Payette Lakes Supervisory Area, McCall
- Lisa Johnson, Financial Officer, Director's Office, Boise
- Bill Finke, Information Technology, Director's Office, Boise
- Arvilla Allen, Office Specialist, Coeur d'Alene Staff Office
- Greg VanDolah, Resource Manager-Sr. (Forestry), Payette Lakes Supervisory Area, McCall
- Scott Corkill, Resource Supervisor (Lands, Minerals, Range), Payette Lakes Supervisory Area, McCall
- Scott Howerton, Resource Manager-Sr. (Forestry), Payette Lakes Supervisory Area, McCall
- Gretchen Lech, Gypsy Moth Data Coordinator, Coeur d'Alene Staff Office

Governor Kempthorne wished the employees well in their careers with the Department of Lands and with the State of Idaho.

- **REGULAR**

11. Idaho State Fire Plan Working Group – *Presented by Peggy Polichio, National Fire Plan Coordinator, IDL*

Director Wiggins provided background information. The National Fire Plan was implemented following the 2000 fire season. In 2002, the Idaho Implementation Strategy for the Fire Plan was signed, and a key part of that was formation of the State Fire Plan Working Group. The Working Group's job is to disseminate information, provide oversight and prioritization and to generally facilitate implementation of the Fire Plan in Idaho.

Since that time, every county in Idaho has completed a wildfire mitigation plan. In addition, over \$27 million has been distributed from member agencies to assist local governments and individuals. In fact, Director Wiggins noted that this week another million dollars of Fire Plan money will be distributed to volunteer fire assistance grants and community fire protection grants.

At the February 2005 National Fire Plan Conference held in Albuquerque, New Mexico, the Idaho State Fire Plan Working Group was honored with an Award for Excellence in Collaboration. The Award was presented to the Group by the Secretaries of Agriculture and Interior in recognition of their work in Idaho. The Idaho State Fire Plan Working Group has set the standard for National Fire Plan implementation in the Nation.

Peg Polichio, National Fire Plan Coordinator, introduced some of the members of the Working Group. Governor Kempthorne welcomed Ms. Polichio and offered his congratulations on the Group's success.

Ms. Polichio noted six members of the Idaho State Fire Plan Working Group are present, and they represent six organizations. Another ten member organizations are not present.

- Dr. Robert Cope, Idaho Association of Counties
- Jerry Miller, Idaho Department of Commerce and Labor

- Mark Larson, Idaho State Fire Marshall
- Leonard Wehking, Idaho Bureau of Land Management
- Jon Skinner, Idaho Bureau of Land Management
- Ed Waldapfel, Idaho Forest Supervisors

Governor Kempthorne thanked each of the members for the critical resource they provide and asked them to keep up their great efforts.

No action was taken on this agenda item.

12. Proposed Perpetual Conservation Easement – Presented by Ron Litz, Assistant Director, Forestry and Fire

DEPARTMENT RECOMMENDATION: That the Board accept the Nokes Conservation Easement.

DISCUSSION: Director Wiggins provided background information. This agenda item covers a very unique and generous gift on the part of an Idaho citizen and his wife to the University of Idaho. The area encompasses about 1740 acres of forest land in and around the edge of McCall and Payette Lake. The land is owned by Dr. Herald Nokes and his wife, Donna. Dr. and Mrs. Nokes are in the process of gifting the land to the University of Idaho to become a part of the University forest and to be managed in perpetuity as a working and learning location for foresters.

As a part of this gift, Dr. and Mrs. Nokes have placed a conservation easement on the land that defines the limits of what can take place there in the future. They have chosen the Department of Lands as the body to hold the easement and to monitor it through time to confirm that its terms are being met. Director Wiggins stated he has worked with Dr. Nokes for many years and it is an honor that Dr. Nokes has chosen IDL for this important task.

Director Wiggins stated the land is in two parcels. One is the forest parcel and the other is the Nokes family site parcel. Both parcels are included in the conservation easement for a total of 1740 acres. About 90 acres is included with the family parcel and 1650 in the forest parcel.

Bob Maynard, Perkins Coie, addressed the Board on behalf of Dr. and Mrs. Nokes

Mr. Maynard stated that the land has been managed for many years by the Nokes as a private tree farm with a conservation ethic and as a working forest. The land has been managed to produce and harvest wood products, with sustainable timber harvests, while at the same time improving the health of the forest, maintaining and enhancing fish and wildlife habitat and other ecosystems, along with scenic and open values that are becoming increasingly valued in the McCall area. The proposal presented today is a wonderful legacy from the Nokes to the people of Idaho.

The proposal has two basic components. One component is conveyance by gift deed of about 650 acres, the forest parcel, to the University of Idaho for management as an addition to the University experimental forest system. Dr. and Mrs. Nokes have reserved a life estate in the property. During the life estate, Dr. and Mrs. Nokes will retain private possession and management of the forest parcel. Through their gift, they will assure that management of that tract into future generations serves public forestry and related science research and education objectives through ownership and administration by the University of Idaho, which is their alma mater. Mr. Maynard's expectation is that the property will generate sufficient income through continued sustained timber harvest to pay operation and maintenance expenses with money also available for scholarships and other purposes once the University takes full title and possession.

The second component, which is for the Land Board, is gift conveyance of a deed of conservation easement to the State of Idaho, Department of Lands, that covers the forest parcel and the adjacent 90-acre parcel, referred to as the Nokes family site parcel. The conservation easement helps assure that the working forest, open space, scenery, fish and wildlife and other conservation values and public benefits of the forest parcel continues in perpetuity under management by the Nokes and then the University. It also assures that ownership and management of the adjacent family site parcel, which the Nokes are retaining in private ownership, will be protected and that conservation values are managed in coordination with the forest parcel.

This conservation easement tracks the approach and structure for conservation easements held and administered by the Department of Lands under the Forest Legacy Program. It has the prohibitions and limitations expected for conservation easement design to maintain a tract of land as a working forest and precludes subdivision or conversion into intensive industrial, commercial or other use that would significantly impair natural and rural values. However, this is a straight gift from the Nokes. There are no federal or state funds being sought from the Forest Legacy Program for this donation. Mr. Maynard's understanding is that the Department of Lands oversight cost for this easement will be minimal, less than two thousand dollars per year, and the land is located a short distance from the IDL McCall Supervisory Area office.

Mr. Maynard noted that neither the forest parcel, nor the family site parcel, will be open to general unsupervised public access and use. Particularly once the University takes full title and possession, the forest parcel will be available for supervised College of Natural Resources research and education programs and related tours and other structured events for the interested public. This proposal is not an addition to Ponderosa State Park or otherwise part of the state or federal lands open for general public recreation and other use.

During the life estate, the forest parcel, as well as the family site parcel, will remain private property under the care of the Nokes. However, Mr. Maynard emphasized the great public benefits that immediately vest from the conservation easement and the gift deed donations, including maintaining scenic views of the forest from Little Payette Lake and other vantage points around the property, water quality in Lake Fork Creek, as well as the lake itself, which is a refuge for wildlife in the increasingly subdivided and crowded McCall area.

The Nokes will continue to have a cooperative relationship with the University and the Department of Lands regarding management of their property. It is anticipated that during their tenure there will be opportunity for supervised public tours and other events. Mr. Maynard emphasized those activities will occur only with the Nokes' specific permission during the tenure of the life estate and that specification must be respected.

Dr. Tim White, President, University of Idaho

Dr. White commented he is deeply moved and humbled by the remarkable generosity of the Nokes. He noted that "in perpetuity" means today, tomorrow and every day that follows. Recently Dr. White had a chance to identify five areas of strategic future importance for the University of Idaho. One of the areas identified was advancing and stewarding the environment to meet the needs of Idaho's natural resources, contributing to the quality of life and sustaining the natural resource industry. Dr. White stated the University is in full agreement with the conservation easement, and he encouraged the Board's approval.

Steven Daley Laursen, Dean, College of Natural Resources, University of Idaho

Dean Laursen commented he shares President White's humility and delight and deep sense of thankfulness. He believes this is an opportunity for the University of Idaho, College of Natural

Resources, to expand upon its mission thanks to the generosity of two great Idaho residents, not to mention Idaho alumni.

Dean Laursen stated the College of Natural Resources has statewide responsibility for natural resource research, education and outreach. The establishment of the easement, and the ensuing gift, expands both the range and diversity of ecological conditions and land type on which the College can carry out its appointed mission within the State. The conservation easement makes the University forest, and the people who work on it, more fully representative of the full range of conditions in the State of Idaho geographically. Secondly, the Boise-McCall-New Meadows area as a corridor is truly one of Idaho's most dynamic and significant zones. Changes in land use, underway and expanding, bring threats of invasive species, fire and fuels problems, along with significant possible consequences for economies and ecological services. The gift comes in an area where the College of Natural Resources can truly make a difference. It provides the College and University with a landscape where an important contribution can be made even more than could be made in the past.

On behalf of the College of Natural Resources, Dean Laursen thanked the Nokes for their generosity and vision and stated he enthusiastically supports the easement and humbly accepts the responsibility of managing it under the terms of the easement and bequest. The College will work in partnership with the Idaho Department of Lands on behalf of the people of Idaho.

Secretary of State Ben Ysursa

On behalf of the State, Secretary of State Ysursa thanked the Nokes for their generosity. He commented the conservation easement will be in good hands with the Department of Lands.

Attorney General Lawrence Wasden

Attorney General Wasden thanked Dr. and Mrs. Nokes for their tremendous insight and foresight in the current management of this parcel. Reports he has received show that this land is a wonderful example of a working and healthy forest. In addition, he thanked the Nokes for their generosity in providing this gift to the future of Idaho, particularly to our students. He commented that future generations will be taught through this gift, and he thanked the Nokes for their leadership.

Dr. Herald Nokes

Dr. Nokes thanked everyone for their kind words, especially President White and Dean Daley-Laursen. He stated some of his friends and family have asked him why he would do this and he has been thinking about that for many years.

Dr. Nokes stated he loves the State of Idaho and has a great admiration for his alma mater, the University of Idaho, and especially the Forestry School, which is now called the College of Natural Resources. The abiding reason for this gift is the land itself. Once while giving a tour of the property to Dean John Hendee of the College of Forestry, Dean Hendee made the comment that the land would make a nice experimental forest. That comment planted the seed and since then Dr. Nokes has struggled with the idea. He remarked it is not easy to plan to give away something like this. On the other hand the decision was made in the interest of the land and because of his love of the land. The decision has taken about fifteen years to reach this point. Dr. Nokes stated he and Donna are very pleased to have made this decision, and he again thanked everyone for their kind remarks.

Governor Dirk Kempthorne

Governor Kempthorne commented there is another learning aspect of this gift. Dr. and Mrs. Nokes have given a wonderful example to all the citizens of Idaho of the gift of giving. All of our

universities and institutions of higher education can point to this as an example of how people give back to an institution, a state, a nation that has helped them become who they are. In saying thank you and giving back to those institutions, states and nations, we become stronger. Students will learn, but all of us thank Dr. and Mrs. Nokes for the treasure that has been given to the University and to the State, and it will be afforded that type of stewardship.

Controller Keith Johnson

Controller Johnson asked about the current use. Noting it is a large piece of property, he would expect there is elk and deer and perhaps recreational uses. Does the public use the property today in any recreational capacity or, because it is private property, is that type of use excluded from this parcel? Mr. Maynard responded this is private property, and it is not open to the general public for hunting or other recreation. People are allowed on the land only with permission of the Nokes, as befits private property. With the gift, it will be open to supervised public access for research and education purposes, but, again, not for general recreation use. That is not the purpose. Controller Johnson asked if the University will grant permission for hunting or snowmobiling or any kind of recreational use. Mr. Maynard stated it is his understanding they will not.

Controller Johnson asked if this proposal affects the property tax base in Valley County. Mr. Maynard stated he is not a tax attorney, other tax attorneys have worked on this, but it is his understanding with the provisions in the Idaho Code that this will not affect or decrease the tax base in Valley County. The donation of the conservation easement, in particular, does not trigger any reduction in taxes. The land will continue to be taxed as forest and other agricultural land.

Governor Dirk Kempthorne in Closing

In closing, Governor Kempthorne again thanked Dr. and Mrs. Nokes for their generosity to the citizens of Idaho.

BOARD ACTION: A motion was made by Secretary of State Ysursa to accept the Department's recommendation with extreme gratitude. Attorney General Wasden seconded the motion. The motion carried on a vote of 5-0.

Change in Agenda Item Order

At this point, Governor Kempthorne advised the Board members that he would be leaving the meeting early to award a purple heart to one of the members of the 116th who was seriously injured in Iraq. The soldier's name is Nicholas Dahmen-Bosse, and he is in Moscow, Idaho.

Governor Kempthorne requested that item 15, the discussion about Senate Bill 1169, be moved to this point in the agenda to allow for a full discussion. The agenda items for the Endowment Fund discussion and Mountain Home 40 would follow. There being no objection, the Board next heard agenda item 15.

13. Endowment Fund Investment Board Report – Presented by Richelle Sugiyama, Interim Investment Manager, EFIB

Ms. Sugiyama stated the current value of the Fund as of June 30 was \$840.5 million with fiscal year-to-date returns of 9.4%. For the month of June, the Fund generated a return of 0.9%. For the last two years the total Fund has outperformed its policy benchmark of 13.2% versus the benchmark return of 12%, primarily due to the U. S. equity allocations. For fiscal year-to-date,

the total Fund has exceeded the benchmark return by about 90 basis points with a return of 9.4% versus the benchmark return of 8.5%. The out performance is generated primarily by the U.S. equity portion exceeding its benchmark by about 70 basis points and the international equity allocation exceeding its benchmark by approximately 220 basis points. For the fiscal year-to-date period fixed income has lagged by only 20 basis points. The asset allocation is on target with a 56% domestic equity allocation, just over 14% to international equity and just under 30% to fixed income and cash. All together the Fund is in good shape.

Secretary of State Ysursa asked about PERSI's fiscal year-to-date total Fund return. Ms. Sugiyama stated PERSI generated a return of 10.8%. However, Ms. Sugiyama highlighted the differences in the performance. PERSI has a significant allocation to emerging markets. The EFIB does not have an allocation specifically to emerging markets. The other bet that PERSI has is to real estate investment trusts. It allows exposure to real estate, and the EFIB also does not have that. The other asset class that came in very strong for PERSI at the end of June was private equity allocation. So there are three areas in which the Endowment Fund versus PERSI are very different in terms of the allocation.

Controller Johnson commended Ms. Sugiyama for the great work of her and her staff at the EFIB.

No action taken on this agenda item.

14. Request for Final Approval to Sell Mountain Home 40 – *Presented by Denise Mills, Assistant Director, Lands, Minerals, Range*

DEPARTMENT RECOMMENDATION: Direct the Department to advertise and sell the forty-acre parcel, without reservation of minerals, at public auction based on a minimum bid of \$60,000 to deposit the proceeds in the Land Bank for future acquisition of real property for the Hospital South Endowment.

DISCUSSION: None.

BOARD ACTION: A motion was made by Attorney General Wasden to accept the Department's recommendation. Controller Johnson seconded the motion. The motion carried on a vote of 4-0, with Governor Kempthorne being absent for this vote.

15. Adoption of Temporary Rules to Implement Senate Bill 1169 (Amendments to Surface Mining Act) – *Presented by Denise Mills, Assistant Director, Lands, Minerals, Range*

DEPARTMENT RECOMMENDATION: Adopt the proposed temporary rules with an effective date of July 13, 2005 and direct IDL to publish the rules in the Administrative Bulletin as soon as reasonably possible.

DISCUSSION: A transcript is available upon written request. Please send your request to Susan Terry, Idaho Department of Lands, Post Office Box 83720, Boise, ID 83720-0050.

BOARD ACTION: A motion was made by Attorney General Wasden to adopt the temporary rules as proposed by the Department. Superintendent Howard seconded the motion. The motion carried on a vote of 5-0.

- **INFORMATION**

Director Wiggins briefed the Board on the Information Agenda item. No Land Board action is required on the Information Agenda.

16. Land Exchange Status Report – Staffed by Perry Whittaker, Chief, Bureau of Real Estate

DISCUSSION: Controller Johnson requested the status of the Tamarack exchange. Director Wiggins stated the Department is in the process of contracting with an economist to provide an independent financial review. After the economist's review, the Department will provide a review of other implications associated with the acquisition along with information on the disposal that would accompany it. The expectation is this item will come back before the Board at the October Board meeting.

BOARD ACTION: No action was taken on this agenda item.

A motion was made by Controller Johnson to resolve into Executive Session. Attorney General Wasden seconded the motion. The motion carried on a vote of 4-0, with Governor Kempthorne being absent for this vote.

- **EXECUTIVE SESSION**

- A. To Consider Records that are Exempt from Disclosure [[Idaho Code § 67-2345\(1\)\(d\)](#)]
- B. To Consider and Advise Its Legal Representatives in Pending Litigation or Where There is a General Public Awareness of Probable Litigation [[Idaho Code § 67-2345\(1\)\(f\)](#)]
- C. To Consider Personnel Matters [[Idaho Code § 67-2345\(1\)\(b\)](#)]
- D. To Consider Acquiring an Interest in Real Property Which is Not Owned by a Public Agency [[Idaho Code § 67-2345\(1\)\(c\)](#)]

Upon unanimous consent, the Board resolved into Regular Session at 12:00 p.m.

Item not on the Agenda

Controller Johnson stated that he and Attorney General Wasden were tasked to lead a subcommittee on compensation for the Director of the Department of Lands. Controller Johnson moved that the Board continue with the subcommittee's efforts and begin the process of working with an outside consultant to perform a management study covering three basic items: compensation of the Director, evaluation and parameters of the Director's duties as related to the Board, and any management issues that may need to be addressed. Attorney General Wasden seconded the motion. The motion carried on a vote of 4-0, with Governor Kempthorne being absent for this vote.

There being no further business to come before the Board, the meeting adjourned at 12:01 p.m.

IDAHO STATE BOARD OF LAND COMMISSIONERS

/s/ Dirk Kempthorne

President, State Board of Land Commissioners and
Governor of the State of Idaho

/s/ Ben Ysursa

Ben Ysursa
Secretary of State

/s/ Winston A Wiggins

Winston A Wiggins
Director

The above-listed final minutes were approved by the State Board of Land Commissioners at the August 9, 2005 regular Land Board meeting.